

From: [Pooja Parikh](#)
To: [Stephen Hess](#)
Cc: [Michael Overbay](#); [Doug Beak](#); [Jeanne Briskin](#)
Subject: Re: Response to Chesapeake Energy letter requiring EPA to accept liability for damages we may cause during drilling
Date: 05/03/2012 04:18 PM

All: I just talked to Steve, and we thought it would be best if we discussed this issue over the phone. I am out for the rest of the day today and tomorrow, but will send out a meeting invite for early next week. But if you need a more immediate answer, Steve said that you can feel free to contact him directly. He can be reached at 564-5461.

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▼ [Stephen Hess---05/03/2012 01:14:58 PM---Pooja - I'll take care of this. Can I get a copy of the document? Steve. Stephen Hess](#)

From: Stephen Hess/DC/USEPA/US
To: Pooja Parikh/DC/USEPA/US@EPA
Cc: Michael Overbay/R6/USEPA/US@EPA, Doug Beak/ADA/USEPA/US@EPA, Jeanne Briskin/DC/USEPA/US@EPA, Kenneth Pakula/DC/USEPA/US@EPA, James Drummond/DC/USEPA/US@EPA
Date: 05/03/2012 01:14 PM
Subject: Re: Response to Chesapeake Energy letter requiring EPA to accept liability for damages we may cause during drilling

Pooja - I'll take care of this. Can I get a copy of the document? Steve.

Stephen Hess
U.S. EPA, Office of General Counsel
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Room 7426 C, Mail Code 2399A
Washington, D.C. 20460
Phone: 202-564-5461

▼ (b) (5)



From: James Drummond/DC/USEPA/US
To: Pooja Parikh/DC/USEPA/US@EPA
Cc: Michael Overbay/R6/USEPA/US@EPA, Doug Beak/ADA/USEPA/US@EPA, Jeanne Briskin/DC/USEPA/US@EPA, Stephen Hess/DC/USEPA/US@EPA, Kenneth Pakula/DC/USEPA/US@EPA

Date: 05/03/2012 01:07 PM
Subject: Re: Response to Chesapeake Energy letter requiring EPA to accept liability for damages we may cause during drilling

(b) (5)





From: Pooja Parikh/DC/USEPA/US
To: Michael Overbay/R6/USEPA/US@EPA
Cc: Doug Beak/ADA/USEPA/US@EPA, Jeanne Briskin/DC/USEPA/US@EPA, James Drummond/DC/USEPA/US@EPA, Stephen Hess/DC/USEPA/US@EPA
Date: 05/03/2012 12:39 PM
Subject: Re: Response to Chesapeake Energy letter requiring EPA to accept liability for damages we may cause during drilling

Michael: I'm going to defer to the experts on this stuff; **Jim/ Steve**: could either of you respond to Michael's question? Thanks.

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From: Michael Overbay/R6/USEPA/US
To: Pooja Parikh/DC/USEPA/US@EPA
Cc: Doug Beak/ADA/USEPA/US@EPA, Jeanne Briskin/DC/USEPA/US@EPA
Date: 05/03/2012 11:48 AM
Subject: Re: Response to Chesapeake Energy letter requiring EPA to accept liability for damages we may cause during drilling

Thanks Pooja,

(b) (5)



Mike

Michael Overbay, P.G.
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▼ Pooja Parikh---05/03/2012 09:30:25 AM---I've been talking to the various experts in OGC -- and have been told that EPA cannot enter into ind

From: Pooja Parikh/DC/USEPA/US
To: Michael Overbay/R6/USEPA/US@EPA
Cc: Doug Beak/ADA/USEPA/US@EPA, Jeanne Briskin/DC/USEPA/US@EPA
Date: 05/03/2012 09:30 AM
Subject: Re: Response to Chesapeake Energy letter requiring EPA to accept liability for damages we may cause during drilling

I've been talking to the various experts in OGC -- and have been told that EPA cannot enter into indemnification agreements because these provisions expose the Agency to unlimited liabilities in advance of, or in excess of, available appropriations in violations of the Anti-Deficiency Act, 31 USC 1341. Here is an example of the type of letter we can put together regarding property damage or personal injury due to negligent acts by EPA employees.

[attachment "Range Waiver Gen Response Letter.pdf" deleted by Michael Overbay/R6/USEPA/US]

I hope this helps; let me know if you need anything further. FYI -- the key people to talk to in OGC on these issues are James (Jim) Drummond and Stephen Hess; I'll be out of the office tomorrow but you can contact them directly if needed.

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▼ Michael Overbay---05/02/2012 05:05:31 PM---Hi Pooja, Jeanne Briskin has asked me to forward you the language we need OGC to respond to regardin

From: Michael Overbay/R6/USEPA/US
To: Pooja Parikh/DC/USEPA/US@EPA
Cc: Jeanne Briskin/DC/USEPA/US@EPA, Doug Beak/ADA/USEPA/US@EPA
Date: 05/02/2012 05:05 PM
Subject: Response to Chesapeake Energy letter requiring EPA to accept liability for damages we may cause during drilling

Hi Pooja,

Jeanne Briskin has asked me to forward you the language we need OGC to respond to regarding our prospective case study with Chesapeake Energy. This is a voluntary collaboration between EPA and Chesapeake, and is not something we can compel. In order to allow us to drill monitoring wells near their new gas well, Chesapeake wants us to accept liability for any damages our drilling contractor may cause by colliding with their well. However, we will be using a system which is accurate to within 3 feet, and we have committed to stay 30 feet from the well, so there should not be any realistic chance of causing this type of damage.

Nevertheless, Chesapeake's Director of Federal Regulatory Affairs, Ms. Stephanie Timmermeyer, has included the following language in her letter to Ramona Trovato, Principal Deputy AA for ORD:

"As we have discussed, EPA will be required to accept all liability related to potential damage to the Chesapeake well and the environment related to the installation and use of these wells. This will be an extremely important issue that should be resolved quickly given the multi-million dollar investment Chesapeake has made, and will continue to make, at the location."

I have verbally explained to Ms. Timmermeyer that the federal government does not purchase environmental liability insurance because we are self-insured. They are OK with that, but we need to provide them information discussing that and the process that would be followed should the need arise to make a claim. Here is the full letter, but the language above (which is in the third paragraph of the letter) is all that pertains to this issue.

[attachment "CHK Letter - Horizontal Wells.pdf" deleted by Pooja Parikh/DC/USEPA/US]

Please feel free to contact me with any questions you have, either by email or at the number below.

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